

Assembly Bill No. 1847

Passed the Assembly May 29, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 31720.9 to the Government Code, and to add Sections 3211.5 and 3212.85 to the Labor Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1847, Correa. Public employees: public safety members: biochemical substances.

The County Employees Retirement Law of 1937 provides that, for purposes of qualification for disability retirement benefits, the development of a blood-borne infectious disease by specified safety members, firefighters, county probation officers, and members in active law enforcement, who have completed 5 or more years of service, as specified, shall be presumed to arise out of, and in the course of, employment if the member demonstrates that he or she was exposed to blood or blood products as a result of performance of job duties.

This bill would additionally provide that, for purposes of qualification for disability benefits, the development of an illness due to exposure to a biochemical substance, as defined, by specified peace officer or firefighter members is presumed to arise out of, and in the course of, employment.

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation due to that injury. Existing law provides that, in the case of certain state and local firefighting and law enforcement personnel, the term "injury" includes hernia, tuberculosis, and meningitis that develops or manifests itself during a period while the member is in the service of the governmental entity, and establishes a disputable presumption in this regard.

This bill would provide that, for specified peace officers and firefighters, the term "injury" includes illness or resulting death due to exposure to a biochemical substance, as defined, during the period in which the member is in the service of the governmental entity, and also establishes a disputable presumption in this regard.

Existing workers' compensation law contains various provisions applicable to a firefighter, firefighting member, and member of a fire department.



This bill would specify that whenever these terms are used, the term shall include, but shall not be limited to, unless the context expressly provides otherwise, a person engaged in providing firefighting services who is an apprentice, volunteer, or employee on a partly paid or fully paid basis.

The people of the State of California do enact as follows:

SECTION 1. Section 31720.9 is added to the Government Code, to read:

31720.9. (a) If a peace officer member, as defined in Sections 830.1 to 830.5, inclusive, of the Penal Code, or firefighter member, with service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200), or both, or under this retirement system, under the Public Employees' Retirement System, or under a retirement system established under this chapter in another county, becomes ill or dies due to exposure to a biochemical substance, the illness that develops or manifests itself in those cases shall be presumed to arise out of, and in the course of, employment. The illness that develops or manifests itself in those cases shall in no case be attributed to any illness existing prior to that development or manifestation.

(b) Any peace officer member or firefighter member, as described in subdivision (a), who becomes permanently incapacitated as a result of exposure to a biochemical substance shall receive a service-connected disability retirement.

(c) The presumption described in subdivision (a) is rebuttable by other evidence. Unless rebutted, the board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) For purposes of this section, a peace officer member or firefighter member, as described in subdivision (a), does not include a member whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement



services or active firefighting services, such as stenographers, telephone operators, and other office workers.

(e) “Biochemical substance” means any biological or chemical agent that may be used as a weapon of mass destruction, including, but not limited to, any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as these terms are defined in Section 11417 of the Penal Code.

SEC. 2. Section 3211.5 is added to the Labor Code, to read:

3211.5. For purposes of this division, whenever the term “firefighter,” “firefighting member,” and “member of a fire department” is used, the term shall include, but shall not be limited to, unless the context expressly provides otherwise, a person engaged in providing firefighting services who is an apprentice, volunteer, or employee on a partly paid or fully paid basis.

SEC. 3. Section 3212.85 is added to the Labor Code, to read:

3212.85. (a) This section applies to peace officers described in Sections 830.1 to 830.5, inclusive, of the Penal Code, and members of a fire department.

(b) The term “injury,” as used in this division, includes illness or resulting death due to exposure to a biochemical substance that develops or occurs during a period in which any member described in subdivision (a) is in the service of the department or unit.

(c) The compensation that is awarded for injury pursuant to this section shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The injury that develops or manifests itself in these cases shall be presumed to arise out of, and in the course of, the employment. This presumption is disputable and may be controverted by other evidence. Unless controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(e) For purposes of this section, the following definitions apply:

(1) “Biochemical substance” means any biological or chemical agent that may be used as a weapon of mass destruction,



including, but not limited to, any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as these terms are defined in Section 11417 of the Penal Code.

(2) “Members of a fire department” includes, but is not limited to, an apprentice, volunteer, partly paid, or fully paid member of any of the following:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.



Approved _____, 2002

Governor

